

FILED

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

2016 MAY 26 P 4:49

REDACTED PER MOTION TO PROTECT VICTIM

CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

JL, PRO SE

Plaintiff

v.

Case No.

1:16 CV 583
GRL/JFA

INDIA WILEA MITCHELL,
n her personal capacity

JOHN PAUL SOLO,
in his personal capacity

METROPOLITAN WASHINGTON
AIRPORTS AUTHORITY
(MWAA),

COUNTY OF LOUDOUN,
VIRGINIA,

Defendants

Addresses:

Mitchel, Solo, and MWAA: 1 Aviation Circle, Washington, D.C. 20001-6000
ph (703)-417-8600

Loudoun County Attorney: 20 E. Market Street, Mailstop #34 Leesburg VA 20176
Ph: 703-777-0242

JL, PRO SE (PLAINTIFF)

ADDRESS REDACTED TO PROTECT VICTIM

COMPLAINT

The plaintiff, James Linlor, files this petition for violations of 42 US 1983 relief stemming from an
aggravated sexual battery against the plaintiff, and affirmative actions by all defendants, individually

EXHIBIT

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1 and in concert, to impede and block exercise of laws of the Commonwealth of Virginia as detailed
2 below, in violation of the 4th and 14th Amendments to US Constitution.

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5 **JURISDICTION**

6 This filing is under 42 US 1983. Federal district courts have subject-matter jurisdiction over § 1983
7 claims under either 28 U.S.C. § 1343(a)(3)54 or the general federal question jurisdiction statute, 28
8 U.S.C. § 1331.55.

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10 **NATURE OF ACTION AND RELIEF SOUGHT**

11 1. This is a civil action under 42 U.S.C § 1983, with remedies requested seeking unspecified incurred
12 (retrospective) and prospective monetary (collateral) damages, unspecified monetary damages for
13 pain and suffering, and punitive damages, plus declaratory and prospective injunctive relief against
14 all defendants for committing acts, under color of law, with deliberate indifference and recklessness,
15 by police officers (in their individual capacities) and officials of the Metropolitan Washington Airport
16 Authority, (MWAA), and of by officials of Loudoun County, Virginia. MWAA is a public body,
17 corporate and public, that operates the MWAA police force, and is funded in part by Loudoun
18 County, Virginia.

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22 2. The aggravated sexual battery (per VA § 18.2-67.3) was committed at Dulles Airport, located in
23 Loudoun County, Virginia, on March 10, 2016. Plaintiff travels frequently through this airport for
24 reasons including his occupation as an airline pilot, exposing him to the risk of future injury.
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1 3. The unspecified monetary damages listed above, plus declaratory and prospective injunctive relief
2 sought are authorized by 28 U.S.C. Sections 2201 and 2202, 42 U.S.C. Section 1983 and Rule 57 of
3 the Federal Rules of Civil Procedure.

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6 4. Plaintiff was deprived of his liberty for unmolested passage without expectation of harm when
7 transitioning a public airport (Dulles), and in case of harm, was denied substantive due process
8 codified in Virginia Commonwealth statutes, for the criminal process to be adhered to by MWAA
9 police, the MWAA, and Loudoun County officials. All defendants' deliberate indifference and
10 reckless refusal to enforce to Petitioner's Commonwealth and Common Law statutory rights of
11 prosecution of criminal behavior, and Defendants "poisoning the well" to make prosecution difficult
12 or impossible against all parties, violated Plaintiff's civil rights. After repeated attempts to appeal
13 through MWAA and Loudoun County processes, defendants all confirmed the Plaintiff exhausted his
14 administrative appeals options, with no remedial or corrective actions taken by defendants or even
15 defendant's Internal Affairs oversight department, implying defendants' actions as a matter of
16 established policy in contradiction to established rights under the US Constitution. The specific
17 Commonwealth law related claims, requiring enforcement under 42 US 1983, are listed below.
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21 5. 4th Amendment violation from non-adherence to Virginia statutes, draws from "the right of the
22 people to be secure in their persons, houses, papers, and effects, against unreasonable searches and
23 seizures, shall not be violated", occurred as a result of the defendants responses (and recklessness
24 and careless indifference) to the search which resulted in an aggravated sexual battery. This search,
25 notably the aggravated sexual battery, was unreasonable on its face, but it is the defendants' actions
26 after the battery that are identified in this case, and it is solely the named defendants' actions that are
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1 the cause of action (not the assailant's actions, which will be addressed in a separate suit).

2 Specifically, all defendants had a role in hindering or blocking petitioner from exercising his rights to
3 request and pursue criminal prosecution under the law, as a violation of the law which can only be
4 remedied through federal enforcement of the 4th Amendment under a Section 1983 action.
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7 6. The 14th Amendment violation, drawing from "nor shall any State deprive any person of life,
8 liberty, or property, without due process of law", where the "process" that the Clause guarantees
9 includes (under Brown) a continuing obligation to satisfy certain minimal custodial standards for
10 those who have already been deprived of their liberty. By hindering and blocking Petitioner from
11 pursuing substantive due process, all defendants have in their respective ways blocked the Plaintiff's
12 rights to request and pursue criminal prosecution under the law, as a violation of the law which can
13 only be remedied through federal enforcement of the 14th Amendment right of substantive due
14 process, under a Section 1983 action.. Specific actions of each actor are listed further in this
15 complaint.
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19 7. "Deliberate indifference" exists because of deliberate actions specified below, attributable to the
20 municipality, directly caused a deprivation of rights of prosecution. "Recklessness" exists because
21 the MWAA officers (Mitchell and Solo, in their individual capacities), had conduct whereby they did
22 not [necessarily] desire harmful consequence but...[should have] foreseen the possibility -[of harm]
23 and [nevertheless] consciously took the risk. This is evident because a reasonable officer would have
24 had the protection of Harlowe, to accept custody of a citizen's arrested suspect and bring him to the
25 Magistrate under statutes listed in this complaint, but they explicitly chose not to do any of these
26 activities, despite multiple reminders and exhortations over a period of two months until they refused
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1 to speak with the Plaintiff and other MWAA and Loudoun County officials informed Plaintiff that he
2 had exhausted all of his available administrative appeals. Moreover, even though Mitchel and Solo
3 eventually filed a police incident report, they initially refused to file any report of the aggravated
4 sexual battery, and their chief supervisor (Major Miller) confirmed that he had to order them write a
5 report, or else one would not have been written.
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7 Indeed, Petitioner requested such a de-escalation and resolution multiple times verbally and in
8 writing, but was repeatedly rebuffed by all parties, who confirmed that Petitioner exhausted all
9 appeals and procedural remedies.
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12 8. Petitioner alleges two elements: (1) the action occurred “under color of law” by virtue of MWAA
13 police officers Mitchell and Solo, responding in-uniform and on-duty to a call for assistance by the
14 victim, as well as MWAA and Loudoun County acting in their official capacities, and (2) the action is
15 a deprivation of a constitutional right (specifically the 4th and 14th Amendments to the Constitution)
16 by virtue of the victim being intentionally hindered and blocked from pursuing criminal prosecution
17 of the suspect, by virtue of the defendants' affirmative actions (shown by “reckless indifference” vice
18 simply “careless indifference”).
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21 9. Injuries to Petitioner are:

22 From the MWAA police officers Mitchell and Solo, in their personal (individual) capacities:

23 a. filing of a misleading and false incident report in violation of Virginia state statutes, which
24 misrepresents the felony sexual battery victim's statements, inaction representing careless
25 indifference and recklessness to not take a citizen's arrested felony suspect into custody, and
26 existence plus conclusions of battery-confirming video evidence, which through Mitchel and Solo's
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1 deliberate indifference and recklessness served to prevent Plaintiff from exercise of local rights of
2 prosecution of criminal activities perpetrated on him, and by virtue of this deliberate indifference and
3 reckless behavior, deprived Plaintiff of his rights under the 4th and 14th Amendments to the US
4 Constitution.

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6 b. refusal to by MWAA police, at and after the incident, to accept custody of a citizen's arrested
7 felony suspect, documented in the police incident report with written affirmation of a lawful citizen's
8 arrest suspect, with the citizen's arrest made in the presence of Mitchell and Solo (per Common Law
9 of Torts law textbook examples, plus case law from the Virginia Circuit Court's decision of Hudson
10 v. Commonwealth of Virginia, 2003 (Appellate Court affirmed), and Carroll v US), and by Mitchell
11 and Solo's deliberate indifference and recklessness served to prevent Plaintiff from exercise of local
12 rights of prosecution of criminal activities perpetrated on him, and by virtue of this deliberate
13 indifference and reckless behavior, deprived Plaintiff of his rights under the 4th and 14th Amendments
14 to the US Constitution.

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16 c. Refusal to accept criminal complaints, or to investigate them, by MWAA management, Internal
17 Affairs, Magistrate's office, and Attorney's office, effectuating deliberate indifference and
18 recklessness which served to prevent Plaintiff from exercise of local rights of prosecution of criminal
19 activities perpetrated on him, and by virtue of this deliberate indifference and reckless behavior,
20 deprived Plaintiff of his rights under the 4th and 14th Amendments to the US Constitution.

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22 d. Refusal to provide (release to Plaintiff without precondition, which is the same manner that
23 MWAA received it) incriminating video and FOI evidence in their possession, by MWAA police and
24 management officials, demonstrating deliberate indifference and recklessness which served to
25 prevent Plaintiff from exercise of local rights of prosecution of criminal activities perpetrated on him,
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1 and by virtue of this deliberate indifference and reckless behavior, deprived Plaintiff of his rights
2 under the 4th and 14th Amendments to the US Constitution.

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5 10. Specific Acts in violation of Loudoun County and Virginia Commonwealth law, requiring
6 enforcement under Section 1983 as described previously:

7 MWAA police officers, in their individual capacities, and MWAA officials in their official capacities
8 (through affirmative actions and not *respondeat superior*), and Loudoun County officials:

- 9 - filed false and misleading police reports, and refused to perform obligatory duties (such as
10 accepting custody) of the Common Law and Commonwealth statute-supported citizen's arrested
11 felony suspect,
12
13 - hid officers' improper physical control and release without investigation or charge of the felony
14 suspect despite first-person complaints of the victim (who is also a credible witness as a conservator
15 of the peace under Commonwealth statute), and confirming video evidence from a subset of
16 approximately 23 video cameras in the immediate vicinity, with TSA confirming that the whole event
17 was captured in varying completeness on a variety of cameras from different angles,
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19 - refused to perform statutory appearances of witnesses and evidence before a magistrate (VA § 19.2-
20 82),
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22 - avoided collection of incriminating evidence required to be collected under statute,
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24 - conspired to hide evidence by claiming ownership and authority to require and enforce MWAA-
25 written non-disclosure agreements (NDAs) over evidentiary videos approved for release by the
26 Transportation Security Administration (TSA),
27
28 - refused multiple times by Loudoun County Magistrates to allow victim to submit (file) a criminal
complaint (VA § 19.2-72), despite promises by the Loudoun County Chief Magistrate to allow the

1 filing of a complaint, and subsequent claims by magistrates that their policies did not allow such
2 submissions (filings),
3 - under the guise of no complaint having been filed, refused to hold a probable cause hearing with all
4 parties present and all relevant evidence collected,
5 - refused to hold a probable cause hearing as required after an arrest (including citizen's arrest (per
6 the Magistrate's Manual page 2-42, and VA code § 19.2-236),
7 - suppressed further incriminating evidence in violation of MWAA Freedom of Information (FOI)
8 and FOI Appeals processes, which MWAA confirmed that Petitioner exhausted prior to filing this
9 case,
10 - prejudicial statements and conclusions by the Loudoun County assistant Commonwealth attorney,
11 based on falsified and misleading police reports (that he was advised are alleged to be false, with the
12 victim's statements and video evidence proving the falsehoods), such that the Loudoun County
13 attorney asserted that no crime of any sort had taken place, in violation of local statutes and on-the-
14 record statements by the Loudoun County assistant attorney, and Loudoun County Chief Magistrate
15 and other Loudoun County magistrates that sexual battery victims can "always file complaints and
16 have them investigated."

21 STANDING

22 Plaintiff asserts all three of Article III's standing requirements: (1) Plaintiff was the personal victim of
23 an aggravated sexual battery resulting in the circumstances supporting a lawful citizen's arrest and
24 independent and consequential prosecution for historical and prospective unspecified monetary
25 compensation, punitive damages, and declaratory and injunctive relief to require future compliance
26 by the officers in their individual capacities, plus MWAA and Loudoun County officials, during
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1 ongoing, frequent travel made by Plaintiff through Dulles airport, including as part of Plaintiff's job
2 as an airline pilot, where he is threatened with repeat accidental, intentional ,or retaliatory injuries on
3 future, frequent trips through Dulles airport; (2) his injuries are specifically traceable to the
4 defendants' conduct (of all three groups of defendants) and (3) there is a sufficient likelihood that a
5 favorable decision on the merits will redress the injuries through monetary payments and declaratory
6 and injunctive relief, to foster future adherence to Commonwealth statutes under penalty of additional
7 prosecution for contempt of court.
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10 FACTS

11 1. Plaintiff was the victim of an aggravated sexual battery at Dulles Airport on March 10, 2016.
12 2. No police officers witnessed the crime, but the victim was an off-duty airline pilot (who Virginia
13 statutes codify as a conservator of the peace, with full arrest authority when in command of an
14 aircraft). Witness credibility is implied, and a subset of approximately 23 video cameras in the area
15 recorded and corroborate varying angles and portions of the assault and events before and after.
16 3. On-duty police officers Mitchel and Solo responded to the victim's request for assistance, but
17 decided that because the assailant denied having committed the battery, that no battery had taken
18 place. Requests by the victim were not given credence, and verification of the attack on video
19 recordings were not reviewed or given credence (by virtue of the Plaintiff's observations of Mitchell
20 and Solo's whereabouts and inadequate time or location to review video evidence). Mitchell and Solo
21 refused to file a police report (despite the repeated objection of Plaintiff), without which follow-up or
22 prosecution via criminal processes entitled to US citizens is blocked. Mitchell and Solo and Plaintiff,
23 discussed Plaintiff's intention to prosecute (preferably criminally, not just civilly) the assailant.
24 Mitchell and Solo had good cause to know that not filing a report would block Plaintiff from exercise
25 of this right to avail himself of criminal procedures of Loudoun County and the Commonwealth of
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1 Virginia. They eventually did file a police report when ordered to do so by their "boss' boss", but
2 filed a report with misleading and false information, effectively denying Plaintiff the opportunity to
3 avail himself of criminal prosecution rights.

4 4. Plaintiff requested and paid for a copy of the police report 201600455. Despite the records
5 department at MWAA confirming the request and receipt of payment, and promising 48 hour
6 processing, no copy of the report was released in response to this request, and no employees of
7 MWAA or other Loudoun County officials would discuss any contents o the report with Plaintiff, not
8 allowing Plaintiff the opportunity to correct the misstatements and false information in the report. A
9 copy of the report was finally release under an open records (MWAA FOI) request more than 1
10 month beyond its required date of production, but the harm caused due to the MWAA's knowing
11 dissemination of the false report had already occurred, thereby depriving Plaintiff of his statutory
12 rights related to criminal prosecution, and the cooperation of Loudoun County magistrate and
13 attorney's office officials.

14 5. Plaintiff repeatedly confirmed with MWAA officers and management, plus the Loudoun County
15 Magistrates office, and Loudoun County Attorney's office, that a lawful citizen's arrest for felony
16 sexual battery had occurred, and asked for the accused to be remanded to MWAA police custody for
17 all parties to meet (per statute) at the Magistrates' offices for a hearing for probable cause, and
18 determination of next steps (as should be afforded the victim/Plaintiff in this case). All parties named
19 above refused to cooperate with, support, enable, or participate in a hearing request in violation of
20 VA code sections § 19.2-82., § 19.2-72, § 19.2-76, § 19.2-80.2, and per the Magistrate's Manual
21 page 2-42, and VA code § 19.2-236.

22 6. Plaintiff provided a verbal statement and complaints of violation of substantive due process, plus
23 deliberate indifference and recklessness, to the MWAA Internal Affairs Department, and was
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1 promised follow-up and assistance with resolution. More than two months later, MWAA Internal
2 Affairs, as well as MWAA Police, Loudoun County Magistrate's office, and the specific officers
3 named in their individual capacities, have all stopped responding to Plaintiff's requests to avail
4 himself of statutory rights, and have also not responded in writing (by letter or email). This is a
5 widespread, intentional example of deliberate indifference and recklessness. Freedom of
6 Information (FOI) requests (governed by MWAA FOI policy) have only been partially complied
7 with, and not within required timeframes, further obstructing Plaintiff due to deliberate indifference
8 and recklessness. An appeal pursuant to the MWAA FOI process has also been properly received by
9 MWAA, but again ignored which blocks evidence required for Plaintiff to encourage enforcement
10 under criminal prosecution rights of the Plaintiff, but also impedes Plaintiff's filing of this Section
11 1983 case, and will be the basis for a subsequent Motion to Compel Discovery.

14 7. Per public records responses by the MWAA, Mitchell and Solo investigated the victim (Plaintiff)
15 for any criminal history or warrants, with a negative (clean) response. No MWAA officers, including
16 Mitchel and Solo, inquired or investigated the assailant's criminal history or warrants.

18 8. Plaintiff performed an open records internet search of the assailant's name near Dulles airport, and
19 found a match with a history of petty theft and domestic violence convictions. Despite relaying this
20 information to MWAA and Loudoun County, no action was taken by either party to investigate the
21 assailant and determine if he has open warrants (in addition to his battery on the victim).

23 NO ATTORNEY ASSISTED IN THE PREPARATION OF THIS DOCUMENT.
24

26 Respectfully submitted, and filed with the declaration that all statements in this pleading are true and
27 correct under penalty of perjury.
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2 JL

EXECUTED AT: _____

ON (DATE): _____

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